

REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed June 21, 2004. Reconsideration and allowance of the application and presently pending claims 3-15 and 20-47, as amended, are respectfully requested.

1. Present Status of Patent Application

Upon entry of the amendments in this response, claims 3-15 and 20-47 remain pending in the present application. More specifically, claims 9-10, 15, 20, 21, 23, 24 and 29 are amended, and claims 37-47 are added. These amendments are specifically described hereinafter. It is believed that the foregoing amendments add no new matter to the present application.

2. Indication of Allowable Subject Matter

Applicants greatly appreciate the Examiner's statement in the Office Action at paragraph 12, in which claims 23, 24 and 29 have been indicated as allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Accordingly, Applicants have amended claims 23, 24 and 29 into independent claim format to include all the limitations of their respective base claim and any intervening claims. Applicants wish to clarify that the amendments to claims 23, 24 and 29 are made for purposes of placing the claims in condition for allowance, and not in response to any rejections made based on cited art. Because a dependent claim as a matter of law inherently contains all of the limitations of its respective independent claim, and any intervening claims, the amendments to claims 23, 24 and 29 do not additionally narrow the scope of claims 23, 24 and 29 in any manner. The amendments to claims 23, 24 and 29, now in independent claim format, merely add the text of limitations inherently included in claims 23, 24 and 29 as originally filed. Indeed, Applicants submit that no substantive limitations have been added to the amended claims 23, 24 and 29. Therefore, no prosecution history estoppel should arise from these amendments.

3. Response to Rejection of Claims 9, 15, 20, 21, 27, 34 and 35 Under 35 U.S.C. §103

In the Office Action, claims 9, 15, 20, 21, 27, 34 and 35 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Anderson et al.* (U.S. Patent 6,587,119),

hereinafter *Anderson*, in view of *Martin et al.* (U.S. Patent 6,256,061), hereinafter *Martin*. It is well-established at law that, for a proper rejection of a claim under 35 U.S.C. §103 as being obvious based upon a combination of references, the cited combination of references must disclose, teach, or suggest, either implicitly or explicitly, all elements/features/steps of the claim at issue. See, e.g., *In Re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988), and *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981).

a. Claim 9

Claim 9 was amended in the Applicants' previous response to be in independent claim format. However, claim 9 remains rejected under a proposed combination of *Anderson* in view of *Martin*. Applicants perceive two relevant issues with respect to the novelty of the embodiment defined by claim 9 and the proposed combination of *Anderson* in view of *Martin*. First, the question of "who" in *Martin* performs the process of "defining a rule or rules for generating a moving viewpoint over the image for display," a person/user or the algorithm? The second issue is (assuming that *Martin* is limited to disclosing only the person/user, and not the algorithm, as performing the above-described function) whether independent claim 9 adequately recites this distinction such that claim 9 is distinguished over the proposed combination of *Anderson* in view of *Martin*.

With respect to the first issue, Applicants assert that *Martin* is limited to disclosing that the person/user performs the above-described function. As noted in the Applicants' previous response, *Martin* teaches that a "command sequencing data file 7 stores commands which control the view as displayed on a user's monitor" (Col. 5, lines 31-32). At issue, with respect to claim 9, is precisely "how" the *Martin* command sequencing data file 7 is created. The creation of the *Martin* command sequencing data file 7 is disclosed at Col. 7, lines 24-39, repeated below for the Examiner's convenience (emphasis added):

The command sequencing data file ***is created*** by a development software tool which may be similar to the interface as described above in relation to FIG. 2 but with additional developer tools. These additional tools may include start recording functions, stop recording functions, resume recording functions, launch new files, and link new image file to a portion of the displayed images. For example, ***to create a command sequencing data file 7***, the *developer* ***initiates*** a recording function, ***calls*** up a desired image data file 6, ***moves through*** the image data file 6 and ***pauses or stops*** the recording function. ***The system stores the commands as input by the developer*** as the command sequencing data file 7. If desired, the command sequencing data file 7 can be edited with simple text editing tools. Command files

can be developed from a series of commands sequencing data that are similar in intent, but different in name from the ones listed herein.

Clearly, in the above recited portion of *Martin*, the command sequencing data file 7 is disclosed as being created manually by the developer (the developer being a person/user).

However, other portions in *Martin* must be considered to determine if *Martin* discloses, teaches or even suggests that the command sequencing data file 7 is created by an algorithm. The Office Action alleges that “*Martin* teaches executing an algorithm for determining a display path (executing image transform processes for processing the selected image portions in a continuous sequence controlled by instructions; col. 10, lines 24-27).” The recited portion of *Martin* is repeated below:

Executing image transform processes for processing said selected image portions in a continuous sequence controlled by said instructions in said at least one command sequencing data file.

The above-recited portion of *Martin* discloses at most processing the selected image portions in a continuous sequence controlled by the instructions in the command sequencing data file, which is quite different from a sequencing data file 7 which is created by an algorithm.

Next, the Office Action alleges that *Martin* teaches “executing an algorithm (the ASCII command file or command sequencing data file; col. 3, lines 63-64; col. 4, lines 4-13) associated with characteristics identified.” The recited portion of *Martin*, from col. 3, line 58 to col. 4, line 13 (emphasis added) is repeated below so that the entire paragraph may be considered in context:

The small data capacity required for this form of presentation results from the fundamental data source comprising a still image that is time sequenced through its motion by, for example, simple ASCII text commands that are automatically interpreted in the running program. In one embodiment, the ASCII command file is generated by the recording of an *operator's viewing* of a displayed image. In an alternate embodiment, the *operator* directly feeds commands into a text file which later controls the viewing of the still image.

The above-recited portion of *Martin* discloses at most that the “ASCII text commands ... are automatically interpreted in the running program” and that the ASCII command file is generated by the recording of an *operator's viewing* of a displayed image. In an alternate embodiment, the *operator* directly feeds commands into a text file which later controls the

viewing of the still image,” which is quite different from a sequencing data file 7 which is created by an algorithm.

Then, the Office Action alleges that *Martin* teaches “the algorithm defining rules (instructions or command) for generating a moving object over the image (col. 9, lines 35-47).” The recited portion of *Martin* is repeated below:

A first input for receiving said at least one still image data file and for receiving said at least one command sequencing data file that includes instructions on how to select said image portions from said at least one still image data file.

The above-recited portion of *Martin* discloses at most receiving the command sequencing data file that includes instructions, which is quite different from a sequencing data file 7 which is created by an algorithm.

Accordingly, in at least those portions of *Martin* recited in the Office Action, *Martin* clearly fails to disclose, teach or suggest that the command sequencing data file 7 is created by an algorithm (without the aid of the operator/person/user).

Applicants have reviewed *Martin* in detail, and are not able to find anywhere else in *Martin* any teaching whatsoever that the *Martin* command sequencing data file 7 may be created by an algorithm. In all instances, Applicants believe that *Martin* discloses that the command sequencing data file 7 is created by the operator/person/user. However, if the Examiner believes that *Martin* does disclose, teach or suggest somewhere that the command sequencing data file 7 is created by an algorithm, Applicants respectfully request that the Examiner point out precisely where in *Martin* such disclosure is allegedly found.

Next, the second issue is addressed (whether independent claim 9 adequately recites this distinction such that claim 9, as amended, is distinguished over the proposed combination of *Anderson* in view of *Martin*). Applicants respectfully submit that the proposed combination of *Anderson* in view of *Martin* fails to teach, disclose or suggest “executing an algorithm, in the processing means, associated with those characteristics identified, the algorithm defining a rule or rules for generating a moving viewpoint over the image for display to *determine the moving viewpoint without input from a user*” and “executing an algorithm in the processing means, for determining a display path following the at least one dominant edge, line or curve using the *determined moving viewpoint*” as recited in claim 9 (emphasis added).

The Office Action concludes that “*Anderson* does not teach executing an algorithm,” as noted at page 3 of the Office Action. Thus, *Anderson* fails to disclose, teach or suggest the

above-recited features of claim 9 because no algorithm is executed. For the reasons stated above, Applicants believe that *Martin* also fails to disclose, teach or suggest the above-recited features of claim 9 because the *Martin* command sequencing data file 7 is not created by an algorithm, but rather, is expressly taught as being created by a developer/person/user. Thus, *Martin* fails to disclose, teach or suggest the above-recited features of claim 9.

When considered in combination, *Anderson* in view of *Martin* fails to disclose, teach or suggest the above-recited features of claim 9 because neither of the references disclose the above-recited features. Accordingly, a prima facie case establishing an obviousness rejection by *Anderson* in view of *Martin* can not be made. Thus, claim 9, as amended, is not obvious under the proposed combination of *Anderson* in view of *Martin*, and the rejection should be withdrawn.

b. Claims 15, 20 and 21

Applicants respectfully submit that claim 15, as amended, is allowable for at least the reason that the proposed combination of *Anderson* in view of *Martin* does not disclose, teach, or suggest at least the feature of “defining a rule or rules for generating a moving viewpoint over the image for display to determine the moving viewpoint without input from a user” and “determining a display path moving between each index frame, the display path following the determined dominant edge, line or curve using the determined moving viewpoint” as recited in claim 15.

Furthermore, Applicants respectfully submit that claim 20, as amended, is allowable for at least the reason that the proposed combination of *Anderson* in view of *Martin* does not disclose, teach, or suggest at least the feature of a processor that “defines a rule or rules for generating a moving viewpoint over the image for display to determine the moving viewpoint without input from a user” and “determines a display path moving between each index frame, the display path following the determined dominant edge, line or curve using the determined moving viewpoint” as recited in claim 20.

Also, Applicants respectfully submit that claim 21, as amended, is allowable for at least the reason that the proposed combination of *Anderson* in view of *Martin* does not disclose, teach, or suggest at least the feature of “defining a rule or rules for generating a moving viewpoint over the image for display to determine the moving viewpoint without input from a user” and “determining a display path moving between each index frame using the determined

moving viewpoint, the display path following the determined order of display” as recited in claim 21.

Applicants respectfully refer the Examiner to the arguments for allowability of claim 9 above which demonstrate that the proposed combination of *Anderson* in view of *Martin* does not disclose, teach, or suggest the above-recited features of claims 15, 20 and 21, as amended. Accordingly, a prima facie case establishing an obviousness rejection by *Anderson* in view of *Martin* cannot be made. Thus, claims 15, 20 and 21, as amended, are not obvious under the proposed combination of *Anderson* in view of *Martin*, and the rejections should be withdrawn.

c. Claims 27, 34 and 35

Because independent claim 21 is allowable over the cited art of record for the reasons described above, dependent claims 27, 34 and 35 (which depend from independent claim 21) are allowable as a matter of law for at least the reason that the dependent claims 27, 34 and 35 contain all features/elements/steps of independent claim 21. See, e.g., *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Accordingly, the rejection to these claims should be withdrawn.

4. Response to Rejection of Claims 3, 10, 11 and 13 Under 35 U.S.C. §103

In the Office Action, claims 3, 10, 11 and 13 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Anderson*, in view of *Martin*, and further in view of *Lau et al.* (U.S. Patent 6,633,309), hereinafter *Lau*.

a. Claim 3

Because independent claim 9 is allowable over the cited art of record for the reasons described above, dependent claim 3 (which depends from independent claim 9) is allowable as a matter of law for at least the reason that the dependent claim 3 contains all features/elements/steps of independent claim 9. Accordingly, the rejection to this claim should be withdrawn.

b. Claim 10

Applicants respectfully submit that claim 10, as amended, is allowable for at least the reason that the proposed combination of *Anderson* in view of *Martin* does not disclose, teach, or suggest at least the feature of “executing an algorithm, in the processing means, associated with those characteristics identified, the algorithm defining a rule or rules for generating a

moving viewpoint over the image for display to determine the moving viewpoint without input from a user” and “executing an algorithm, in the processing means, for determining a display path moving between each index frame and following the dominant edges, lines or curves using the determined moving viewpoint” as recited in claim 10.

Applicants respectfully refer the Examiner to the arguments for allowability of claim 9 above which demonstrate that the proposed combination of *Anderson* in view of *Martin* does not disclose, teach, or suggest the above-recited features of claim 10, as amended. Accordingly, a prima facie case establishing an obviousness rejection by *Anderson* in view of *Martin* cannot be made. Thus, claim 10, as amended, is not obvious under the proposed combination of *Anderson* in view of *Martin*, and the rejections should be withdrawn.

c. Claims 11 and 13

Because independent claim 10 is allowable over the cited art of record for the reasons described above, dependent claims 11 and 13 (which depend from independent claim 10) are allowable as a matter of law for at least the reason that the dependent claims 11 and 13 contain all features/elements/steps of independent claim 10. Accordingly, the rejection to these claims should be withdrawn.

5. Response to Rejection of Claims 4-8, 12, 14 and 22, 25-26, 28, 30-33 and 36 Under 35 U.S.C. §103

In the Office Action, claims 4 and 14 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Anderson*, in view of *Martin*, *Lau* and further in view of *Madrane* (U.S. Patent 6,573,907). Claims 5 and 6 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Anderson*, in view of *Martin* and further in view of *Foote et al.* (U.S. Patent 6,404,925). Claims 7 and 8 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over *Anderson*, in view of *Martin* and further in view of *Foote and Terashita et al.* (US. Patent 5,128,711). Claim 12 stands rejected under 35 U.S.C. §103(a) as being unpatentable over *Anderson*, in view of *Martin*, and further in view of *Lau* and *Uchihachi et al.* (U.S. Patent 6,535,639). Claims 22, 25, 26, 28, 30-33 and 36 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Anderson*, in view of *Martin*, and further in view of *Alsing et al.* (U.S. Patent 6,362,850).

Because independent claim 9 is allowable over the cited art of record for the reasons described above, dependent claims 4-8 (which depend from independent claim 9) are allowable

as a matter of law for at least the reason that the dependent claims 4-8 contain all features/elements/steps of independent claim 9. Accordingly, the rejection to these claims should be withdrawn.

Because independent claim 10 is allowable over the cited art of record for the reasons described above, dependent claims 12 and 14 (which depend from independent claim 10) are allowable as a matter of law for at least the reason that the dependent claims 12 and 14 contain all features/elements/steps of independent claim 10. Accordingly, the rejection to these claims should be withdrawn.

Because independent claim 21 is allowable over the cited art of record for the reasons described above, dependent claims 22, 25, 26, 28, 30-33 and 36 (which depend from independent claim 21) are allowable as a matter of law for at least the reason that the dependent claims 22, 25, 26, 28, 30-33 and 36 contain all features/elements/steps of independent claim 21. Accordingly, the rejection to these claims should be withdrawn.

6. Newly Added Claims

New claims 37-47 are based on subject matter that is explicit and/or inherent within the description of the specification and/or the drawings. Applicants submit that no new matter has been added in the new claims 37-47, and that new claims 37-47 are allowable over the cited prior art. Therefore, Applicants request the Examiner to enter and allow the above new claims.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 3-15 and 20-47, are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,

A handwritten signature in cursive script, reading "Raymond W. Armentrout", written over a horizontal line.

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